

Memorandum of Decision: 04-20170988R & 04-20170989R
Sales/Use Tax
For the Years 2015-2017

NOTICE: IC § 4-22-7-7 permits the publication of this document in the Indiana Register. The publication of this document provides the general public with information about the Indiana Department of Revenue's official position concerning a specific set of facts and issues. The "Holding" section is provided for the convenience of the reader and is not part of the analysis contained in this document.

HOLDING

Company established that copier/printer was exempt since it was used for printing product labels affixed to its product. Company's "non-mobile" freezer truck is taxable since it is not realty and additionally is used for post-production storage.

ISSUE

I. Sales & Use Tax - Claims for Refund.

Authority: IC § 6-2.5-5-50; [45 IAC 2.2-5-8](#); [45 IAC 2.2-5-10](#).

Taxpayer protests the Department's denial of its claim for refund.

STATEMENT OF FACTS

Taxpayer manufactures pet food. Taxpayer filed two refund claims with the Indiana Department of Revenue ("Department"). The Department, in a letter dated August 15, 2017, denied Taxpayer's Claims for Refund. Taxpayer filed a protest with the Department, and this written ruling results. More facts, as needed, will be provided below.

I. Sales & Use Tax - Claims for Refund.

DISCUSSION

The Department's denial letter to Taxpayer states:

The transaction indicated in the documentation supporting the basis of the Claim for Refund is not exempt from Sales/Use Tax. Therefore, the Sales/Use Tax was remitted correctly and is unable to be refunded.

Taxpayer's protest involves two items: (1) a copier/printer; and (2) a freezer truck. Each will be examined in turn.

In its protest letter, Taxpayer states that it uses the copier/printer "solely to print labels for packages (it is considered COGS) for the end product that is then sold and taxed . . . just like the bag and the contents that go inside it." Taxpayer manufactures pet food, and states that the labels are affixed to the pet food bag. Taxpayer stated at the administrative hearing that the label is a retail label includes the name of the product, ingredients, etc. Taxpayer states that it pays taxes on all other copiers for general office work, but that the printer (and ink) at issue is "used in the production area—it allows [Taxpayer] not to tie up thousands in pre-printed labels" and that it "lets [Taxpayer] print out the labels [Taxpayer] need[s] for that days production."

[45 IAC 2.2-5-10](#) states in relevant part:

(c) Purchases of manufacturing machinery, tools, and equipment to be directly used by the purchaser in processing or refining are exempt from tax; provided that such machinery, tools, and equipment are directly used in the production process; i.e., they have an immediate effect on the tangible personal property being processed or refined. The property has an immediate effect on the article being produced if it is an essential and integral part of an integrated process which processes or refines tangible personal property.

-EXAMPLES-

(1) Whiskey is produced in a process that begins with the grinding and fermenting of grain and the distillation of the fermented mash, continues further with the maturation of the distilled alcohol and with the blending of individual whiskeys, and ends with the bottling, *labeling*, and packaging of the whiskey prior to shipment to customers. Because of the functional interrelationship of the various steps and the flow of the work-in-process, the total production process comprised of such activities is integrated.
(*Emphasis added*).

Also, IC § 6-2.5-5-50 states:

Transactions involving labels are exempt from the state gross retail tax if:

- (1) the labels will be affixed to other tangible personal property being sold by a retail merchant; and
- (2) the person acquiring the labels is required to affix the labels to the other tangible personal property for the purpose of complying with any state or federal statute or regulation.

Taxpayer's protest regarding this issue is sustained since the labels are part of the Taxpayer's end product as provided by [45 IAC 2.2-5-10](#).

Turning to the freezer truck, Taxpayer's protest states:

It is an extension of our leased warehouse space, and does not move. It is our working freezer that is part of our COGS. We need to have many of our products kept frozen and this is part of the making the end product that we sell and collect tax on. The Freezer is just like our leased premises (it is leased, and an extension of those premises).

Taxpayer further states: "We are not charged sales tax on our leased premises. This is not a truck—it is our freezer that happens to be contained on a non-mobile trailer. The trailer has pins locking the wheels, and has literally travelled 0.00 miles in the 2 years that we have leased it." Taxpayer's argument that the freezer truck is analogous to its warehouse is misplaced; the freezer truck is not realty—the freezer truck can be moved. Additionally, the Department notes that a freezer is used for post-production storage and thus taxable pursuant to [45 IAC 2.2-5-8\(e\)\(2\)](#): "Storage containers for finished goods after completion of the production process are subject to tax." Taxpayer's protest of the freezer truck is denied.

FINDING

Taxpayer's protest is partially sustained and partially denied. Taxpayer is sustained regarding the copier/printer; Taxpayer is denied regarding the freezer truck.

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